



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD and FF

Introduction

This hearing was convened on the tenants' application of April 5, 2012 for return of her security deposit in double on the grounds that the landlord did not return it within 15 days of the latter of the end of the tenancy or receipt of the tenant's forwarding address. The tenant also sought to recover the filing fee for this proceeding from the landlord.

Despite having been served with the Notice of Hearing sent by registered mail on April 5, 2012 and delivered on April 10, 2012, the respondent landlord did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issue(s) to be Decided

This matter requires a decision on whether the tenant is entitled to return of her security deposit, whether the amount should be doubled, and whether she is entitled to recover the filing fee from the landlord.

Background and Evidence

This tenancy began on July 1, 2011 and ended on August 31, 2011. Rent was \$2,800 per month and the contested security deposit was paid on or about June 7, 2011.

During the hearing, the attending tenant gave evidence that there was no written rental agreement. She stated that she had moved in to the rental unit with the intention of staying approximately six months but was shocked on moving in to find other tenants in a basement suite when she was of the belief that she was renting the whole house.

In addition, the landlord objected to the tenant's pet.

Given that the tenancy appeared as though it would not work out, the tenant gave notice to the landlord on July 20, 2011 that she wished to vacate, honoured the landlord's advice that she needed to give a full month's notice and moved out on August 31, 2011.

She stated that no damage had been done to the rental unit during the short tenancy and new tenants moved in immediately following her tenancy.

She stated that she attempted to contact the landlord several times by way of telephone and personal contact and in one successful attempt, the landlord stated that she would return the deposit but didn't have it at the time. On another occasion, the landlord stated she wished to refinish the floor before returning the deposit.

Eventually, the tenant contacted the branch and was advised of the need to provide the landlord with her forwarding address in writing which she did on March 12, 2012. When that effort failed, the tenant made the present application.

Analysis

Section 38(1) of the *Act* allows a landlord 15 days from the latter of the end of the tenancy or receipt of the tenant's forwarding address to return a security deposit or file for dispute resolution to make claim against it unless the tenant has agreed otherwise in writing as per section 38(4).

Section 38(6) of the *Act* states that, if a landlord does not comply with section 38(1) of the *Act*, the landlord must pay the tenant double the amount of the deposit.

I accept the uncontested evidence of the tenant that the landlord was provided with the forwarding address and that the deposit was not returned within 15 days of receipt of it, and that the landlord did not make application to claim against it.

Therefore, find that the tenant is entitled to return of the security deposit in double.

I further find, as the application has succeeded on its merits, that the tenant is entitled to recover the \$50 filing fee for this proceeding from the landlord.

Thus, I find that the tenant is entitled to a Monetary Order, calculated as follows:

For return of the security deposit (No interest due)	\$1,400.00
Filing fee	<u>50.00</u>
TOTAL	\$2,850.00

Conclusion

The tenant's copy of this Decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$2,850.00, for service on the landlord.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 31, 2012.

Residential Tenancy Branch